Sectt. H-29—27,604—25-11-26.

Law (1926) Department.
(General)

Ordinary SERIES.

G.O. No. 3249

DATED 18- 10-1926

[Despatch Abstract.]

Motor vehicles--running of special services--South Kana district--failure to pay fees to the District Board--instructions issued.

C.T., 30—5,000—25-8-24.

C 1 49

DEPARTMENT.

2905

Received 15 FEB 1926 192 Registered 192

Subject

Permission to run special services -motor vehicles.

Requesting that the points raised by the District Magistrate, South Kanara, regarding the intrepretation of the law in the matter of granting -------- may be referred to the South Kanara District Board before final orders are passed.

ENCLOSURES.

No.

Spare copies

C. No. 326 / 26
D. B.

Station Mangalore, *Dated the* 27th January 1926.

From (Name) M.R.Ry Rao Bahadur N. Subba Rao Avargal,

(Designation) President, District Board,
South Kanara.

To The Secretary to the Government of Madras,

Local Self Government Department.

Madras.

Sir,

A conference of the District Magistrate, South Kanara, District Superintendent of Police, South Kanara, Chairman Municipal Council, Mangalore and myself was held on 5. 1. 1926 at the instance of the District Magistrate The question of granting permission for special services to motor vehicles plying for hire and other matters generally were discussed at the conference. We could not come to an agreement as to the proper procedure to be followed. I understand that the District Magistrate is about to address Government as to the intrepretation of the law relating to the subject. The District Magistrate might address his com-

munication to the Chief Secretary for the final decision of the Hon'ble the Law Member. In this connection, I have the honour to state that the Hon'ble the Minister for Local and Municipal Department who is the executive head of the Local Fund Department might be pleased to give me an opportunity of putting forward my views in the matter. The matter is an important one affecting not only the finances but the procedure to be followed. -----
I therefore request that the Government may be pleased to refer to me the points raised by the District Magistrate, South Kanara, in the matter in order to enable me to offer my remarks thereon before final orders are passed by Government

A

I have the honour to be,
Sir,

Your most obedient Servant

President

C F. 30—41,000—8-9-24.

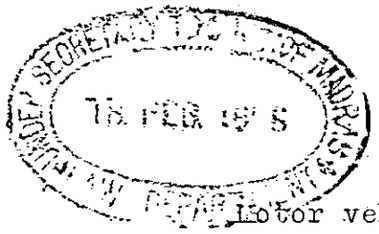
3

LAW (GENERAL) DEPARTMENT.

Received ..... 192 . *Registered* 192

18 & 1020 C

472 18-2-26



Subject Motor vehicles Act (1914) duality of functions - District Magistrate and President, District Board - Difficulties - ------ experienced - Instructions solicited. 11179-1 Law & 21.4.26.

C.m 1396 28/26. Encl Referred to the P.D.B. South Kanara for early remarks which should be submitted through the District Magistrate

For Chief Secy

Ref.No. 10322-C-26. Asst Secy

ENCLOSURE The P.D.B.S.Kanara

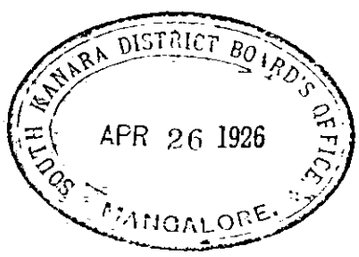
No.

Spare copies

Station K A R K A L. *Dated the* 14th February, 1926.

From (Name) G. W. Wells, Esquire, M.A., I.C.S.,

(Designation) Dt. Magistrate of South Kanara.



To The Secretary to the Government of Madras,

LAW (GENERAL) Department

MADRAS.

Sir,

Subsequent to the adoption in this District by the District Board of certain by-laws framed under section 166 of the Local Boards Act, which were approved and sanctioned by ---- the Government in G.O.No.2162 L & M, dated 2-10-23 and -------- further modified and enlarged in G.O.Nos.2963 L & L ------ dated 18-8-1925, there have arisen certain difficulties in --- the control of motor bus traffic as a result of the dual ----- control that has come to be exercised by the Dt. Magistrate -- and the President District Board under the existing rules. The difficulties which are experienced and which have now caused -- an interference with the existing practice are mentioned --

(V)

(M)

below and I solicit instructions from the Government in this matter.

2. The earliest motor bus traffic in this District dates back to 1915 The Canara Public Conveyance Company was ---- the pioneer in the field, and it started its life with one -- bus and the service was restricted to one road. Subsequently in the succeeding year another company, the Hindu --------- Transport Company came into existence The vehicles owned -- by these companies rapidly increased and services began to be opened on some of the important roads of the District. Then, it was that stricter measures for the safe-guarding of the -- public interests and welfare and a more efficient and ------- stricter control of motor bus traffic became necessary. The number of services which the companies could run per day --- were determined by the District Magistrate and a time-table showing the hours of departure, arrival etc., was drawn up -- for the guidance of the companies. If the companies ------ wanted to run any extra or special services owing to any ---- extra-ordinary circumstances permission had to be obtained -- from the District Magistrate.

3. As the time passed, the number of motor bus ------ companies steadily increased and they commenced running --- their buses on almost all the roads of the District. The following practice was then followed in dealing with all --- applications for the grant of "G" permits. As soon as an -- application was received, the matter was referred to the --- President, Dt. Board requesting his opinion on the ------- condition of the road. If he had no objection or if he ----- desired any special conditions to be imposed, subject to --- these, -"G" permits were issued. The number of services -- which the companies could run on particular roads, continued to be determined by the District Magistrate and the power -- of drawing up the time-table came subsequently to be ------- delegated to the Dt. Superintendent of Police. Special ---- services are asked by companies to meet the convenience of -- the public on special or extraordinary occasions s ch as a -

big jatra or other function. Whether a special service ------- could be run or not should be decided only by the Dt.Magistrate as it is the public interest that is served by the running of------ special services. Such services during big jatras have to be --- regulated by the Police and hence the necessity of retaining the -- power of granting special services with the Dt. Magistrate.

4. At about the end of last year i.e on 20-11-1925, the ---- President District Board made a reference to me pointing out that -- section 166 of the Local Boards Act and the by-laws framed there- under invest him with powers to restrict the number of services and to grant special services, whenever necessary. As this suggestion was in direct conflict with the existing practice, the matter was further discussed by us at a meeting where the Dt.Superintendent of Police and the Chairman, Municipal Council, Mangalore who is also a member of the District Board and likely to be interested as ------- Municipal Chairman, were also present. It was then pointed out --- to the President District Board that the existing practice had ----- been continuing since 1915 without detriment to any of the ------- parties concerned. The number of services to be run by the ------- companies was determined only after obtaining the express opinion - of the President District Board on the condition of the roads ------ and intimations were invariably given to him of all special ----- services run, thus enabling him to collect the District Board ------ dues. The President District Board had nothing to gainsay these -- arguments. He merely contended that the rules did invest him ----- with certain powers and that he did not desire to forfeit the ------ right of exercising them, which I may remark he has not claimed ---- until very recently. This.meeting took place early in January and pending a reference to Government regarding this disagreement, I --- have been referring applications for special services to the ------ President Dt. Board for disposal.

5. During the short time that the President, District ---- Board has been exercising the power of granting special services, there have been instances where some bus-owners took undue -------- advantage. Some special services were run without getting s nction

from any authorities and when the Police detected them, the Managers went to the President District Board long after - the running of such unauthorized services and got permission from him with retrospective effect. If such practices --- continue it would be impossible to regulate the traffic by - the Police and the bus owners will take undue advantage of - such leniency on the part of the President District Board. The Police can have no control over those who violate the - rules if on each occasion a bus-owner is detected running - the unauthorized services, he goes and obtains permission -- from the President District Board with retrospective effect. As regards special services, permission to run them, had -- invariably to be obtained from the District Magistrate This practice has been continuing uninterfered with till ------- practically the end of last year. Subsequent to the adoption of the motor vehicle by-laws by the District Board, copies - of orders restricting the number of services or the granting of special services used to be communicated to the President, District Board to enable him to collect the usual taxes from the companies.

6. I do not think that the by-laws do distinctly and--- unequivocally invest the President District Board with the power of granting special services. The question of the --- services is no-where raised except in the schedule attached to the form of the license wherein the number of journeys the vehicle has to make per diem has to be entered. This seems to me to be to safe-guard the income due to the Board as well as its interest in the roads under its control. There is nothing definite in the by laws relating to --- this matter and I do not believe that this question of ---- special i.e.emergency services did specifically come before the Government for their consideration before approving the by-laws. In G.O. No.1778 L & M dated 26-9-22 the Policy of Government in the matter of the control of motor bus traffic has been clearly enunciated. The duty of ascertaining that

(J)

the vehicle to be licensed is sound, so far as its structural ------- strength, condition, running order generally and other matters are concerned, and of taking measures for ensuring safety to the -------- travelling public is said to devolve on the Magistracy and Police --- while the District Board is said to be concerned with questions ---- relating only to the roads and the condition under which the --- motor vehicle may ply on them. Restricting the number of -------- services which the companies may run and the preparation of a ----- time-table for the guidance of the companies has been found to be -- quite essential in the interests of public safety and welfare. A laxity of control in this matter would result in much --------- un-healthy competition and racing which doubtless would lead to ----- collisions, accidents etc. In a small District like this ------- where the roads are occasionally narrow and where not less than ---- 135 motor vehicles, run by about a dozen companies link up most ---- parts of the District this question has to be viewed with -------- special care and due regard to public safety and convenience. The experience gained in this District for the last ten years and more is in favour of the exercise of the control by the Dt.Magistrate. The Dt. Superintendent of Police agrees with me in this matter and informs me that the practice now in vogue in this District is as far as his knowledge goes, also prevalent in certain other Districts

7. It is to be noted that though it is now over two years ----- since the District Board adopted its by-laws the District ---------- Magistrate's right to permit special services was never hitherto --- challenged, nor is any specific case quoted by the President Distric Board in which the interests of the District Board has on this ----- account suffered. During the course of the last year, in as many as 35 cases permission was granted by the District Magistrate to the bus companies to run special services and I do not think there was a single case in which the companies obtained permission from the President District Board, nor any case in which the President District Board insisted on it. In fact, in the course of the last year when my predecessor, Mr. Souter, warned motor bus companies ----

against running special services without obtaining his permission - a copy of which order was sent to the President District Board- the latter, without questioning the right involved, merely desired the District Magistrate to intimate to him all cases in which such permissions were granted. At present the number of services ---- which the companies run and any special services run by them are - noted by the beat Constables stationed at various places, and the number of services both special and permanent which the companies run are checked by the Police in the following manner. Wherever there are Police Stations on the road-side, an entry is made in the general diary about the time of arrival and departure and the --- number of passengers in the case of each bus that passes the Station. The beat Constables stationed at various places note the services which the companies run in their note books. As the Dt. Magistrate communicates copies previously of the orders granting permission- -- for running special services to the Dt. Superintendent of Police - the Police are able to detect without any difficulty the running of unauthorized special services. By this, both the interests --- of the District Board as well as the public are served in the ---- best manner possible.

8. It seems to me that in this matter the sole concern of the District Board is to see that the safe condition of its roads is maintained and that its road taxes are collected. In that connection it is undoubtedly its right to state definitely what kind of vehicle could be run on a particular road and the maximum ----- number of services it is likely to be able to stand. The District Magistrate after obtaining this information could issue the "G" permit for the appropriate kind of motor vehicle and restrict the number of services to be run on any particular road. The District Board could then collect its dues and issue the road license. I think that the following of this procedure would obviate ------- difficulties.

9. Finally I solicit the Government's consideration of the following. While the President may justly look to the condition of his roads, and to the collection of his road tax and therefore may properly state what should be the maximum number of normal

9/ 7

services on a road, special services are emergency services ------ permitted in the public interest and for the public welfare or --- convenience. They stand outside the ordinary category of ------- services, and it is the Dt. Magistrate who has been authorizing -- them, till recently without challenge, and should continue to do-- so. It is not, I submit, expedient that the head of the District should be debarred from having emergency services run without --- obtaining the permission of a Local Fund Authority whose interest in the matter is properly limited to the collection of the road -- tax, which in any case will be safe.

I solicit instructions in the matter.

Your obedient servant,

A Woodthorpe 16

for Dt. Magistrate.

16-2-26.

U.S. 16-2-26.

16 FEB 1926

C.F. ◆)—5,000—21-10-25.

10 8/

DEPARTMENT.

Received ..... 192 . *Registered* 192

Subject

Permission to run special services.

Offering remarks on the South Kanara District Magistrate's letter in the matter of granting --------.

S.KANARA COLLS OFFICE.
No.
21 AUG 1926

ENCLOSURES.
No. One
Spare copies

Dis No. 1232 D-26
D. B.

Station Mangalore . *Dated the* 21st August 192 6.

From (Name) M.R.Ry Rao Saheb B.Mahabala Hegde Avargal, B.A., B.L.,

(Designation) President, District Board,
South Kanara.

To The Secretary to the Government of Madras,
Law(General)
~~Legislative~~ Department.
Madras.

Through
The District Magistrate , South Kanara.

Sir,

p.3 ante

With reference to Government Memorandum No 11179-1, L & M, dated 21.4.1926 herewith returned, I have the honour to state as follows:-

2. It is true that from 1915 right up to about the end of 1925 the power to grant and control special services was in the hands of the District Magistrates.

3. I cannot say under what circumstances my predecessor took up the question and raised a point of law and asserted that the said powers are vested in him as President of the District Board.

4. Without entering into a discussion of the law and rules relating t the subject I may at once say from the short experience gained during

the last four months i.e. since I became President, that the power of granting special licenses has given me and my office immense trouble and inconvenience.

5. Bus Companies and they are many, very often run the special services and then ask for licenses and at times apply, giving no time to ---- consider . On some occasions applications were received one or two days after the running of services . In all these cases license fee was not paid at the time of the applications. The greatest drawback was, I had never sufficient time to intimate to the District Superintendent of Police about the running of these services. The result was that the companies could run clandestinely more services than authorised and always failed to pay in time the required fees.

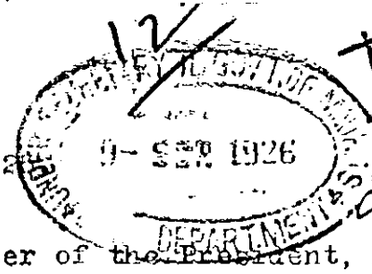
6. The situation became so intolerable that I was obliged to issue a circular to this effect viz (1).That whenever a special service is applied for the fees payable for that service should be prepaid (2) That atleast 24 hours' notice should be given to me before running the service. This circular was more honoured in the breach than in the observance.

7. Without further examining this question I may at once say that the District Magistrate should have powers to issue licenses for special services with a view to better control and check. The interests of the District Board in the matter of the collection of required fees should --- properly be safe-guarded. Here I may suggest that in case fees due to the Board are not paid in time the District Magistrate should have powers to withdraw or cancel the G. Permit , powers of the President in other respects remaining as they are.

I have the honour to be,
Sir,
Your most obedient Servant.

President

Ref.No.10322-C.192



The letter of the President, District Board, South Kanara, dated 21st August 1926 is submitted herewith.

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I have several times discussed the matter with Rao Sahib B. Mahabala Hegde. I consider, and he agrees, that the District Magistrate should retain the power of granting permission for special services. It is I hold essential that the District Magistrate should have the power to do so, but I consider that ordinarily such permission should be granted by the President of the District Board e.g., special services to convey marriage parties, or persons who wish to attend festivals and the like. In fact the present President having conceded that the District Magistrate should have ---- power to issue special permits the main point of difference has disappeared. It would of course be understood that when the District Magistrate issued a special permit he would see that the District Board dues are paid.

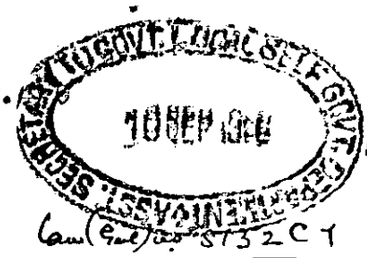
2. The President suggests that failure to pay the ----- District Board fees in time should be made a lawful ground -- for the District Magistrate to cancel or suspend the G permit of the vehicle concerned, This is an excellent suggestion. Another lawful ground for such penal action would be the ---- running of a vehicle without previously obtaining timings for the journey from the District Superintendent of Police, who -- lays down timings to prevent racing, congestion and the like, though at present there is no penalty for failure to take --- timings.

S.Kanara Dt.Magistrate's office,
Mangalore, 3rd September 1926.

For Dt.Magistrate.

26890

M.D'S.



Law (Genl) Dept

A.S.

This is a reply to L.S.G.

L.S.G. No

13

Law (General) Department.

C.No 1020 C. From the District Magistrate, South Kanara, Ref.No. 10323 C -25, dd. 14-2-1926

Subject : - Administration of Motor Vehicles Act

Duality of functions - D.M. and the Prest. District Board, S. Kanara

U.S.

The question raised in the letter of the District Magistrate relates to conflict of jurisdiction betwee the D.M. and the P.D.B. in connection with the control of motor bus traffic in the S.Kanara district. The practice in South Kanara district until January 1926 was as follows : --

pp 2-3 cf

As soon as an application for a "G" permit was received it was referred to the P.D.B. requesting his opinion on the condition of the roads on which the bus was intended to ply for hire. If the P.D.B. had no objection or if he desired any special conditions to be imposed, a "G" permit was issued subject to any conditions laid down by the P.D.B. ~~In the interests of public safety.~~ The number of services which the Motor bus companies could run on particular roads was determined by the District Magistrate and the time table showing the hours of departure arrival etc. was drawn up for the guidance of companies by the D.S.P. To meet the convenience of the public on special or extra ordinary occasions such as festivals the D,M. granted permission to companies to run special services. Copies of all orders issued by the Dist. Magistrate respecting the number of services or granting special services were communicated to the President, District Board to enable him to collect taxes.

p 4 cf

No necessary fees

2. The President, District Board South Kanara pointed out to the Dist Magte, in November last that under section 166 of the Local Boards Act and the bylaws framed thereunder, he had powers to restrict the no. of services and grant special services wherever necessary. ~~In view~~

p 3 cf

post p

model for orders

orders J

hitherto been exercised by the District Magistrate.
At a meeting held in January to discuss the matter, they could not come to an agreement and it is stated that pending reference to Government on the question the Dist. Magte has been referring applications for special services ~~and since then~~ to the President, District Board for disposal.

p3 · C4

3. After discussing the question the District Magistrate makes the following suggestions with a view to obviate the difficulties mentioned above.

Paragraph 8 on p6 ca

"In this matter the sole concern of the District "Board is to see that the safe condition of its roads " is maintained and that its road taxes are collected "In that connection it is undoubtedly its right to "state definitely what kind of vehicle could be run "on a particular road and the maximum number of ser- "vices it is likely to be able to stand. The District "Magistrate after obtaining this information could "issue the "G" permit for the appropriate kind of "motor vehicle and restrict the number of services " to be run on any particular road. The District "Board could then collect its dues and issue the "road license. ".

The District Magistrate suggests also that in the interests of the safety of the public he must have the power to permit "emergency services on special occasions "

(J)

4. Attention is invited to G.O.No. 1778 L. & M, dated 26th September 1922 in which the Government have outlined the functions appertaining to the District Magistrate and the President, District Board in the matter of the control of motor traffic: -

"Regulation is required for two reasons (a) the "safety of the public and (b) wear and tear of the roads. "The Government consider that the duty of ascertaining "that a vehicle which has to be licenced is sound so "far as its structural strength, condition, running "order generally and other matters are concerned and "of taking measures for ensuring safety to the tra- "velling public properly appertains to the magistracy "and police; while the district board is concerned with "questions relating to the use of the roads under its "charge and the conditions subject to which vehicles "may be allowed to ply on them. Motor vehicles plying "for hire should therefore continue to obtain first "the special licence prescribed in rule 30 of the "Motor Vehicles Rules and secondly a further licence "under section 166 of the Madras Local Boards Act "from the President of the district board concerned".

Broadly, therefore, the District Magistrate is conce ed ith measures for the safety of the public and the President, District Board with those regarding the wear and tear of the roads.

5. According to the above criterion, the District Magistrate would seem to be in order in restricting or increasing the number of services of motor buses on roads and fixing the time-table for their running as such precautions are necessary for the prevention of accidents It may be added that it is the practice in Malabar to insist on buses running to a time-table prescribed by the District Superintendent of Police.

6. The contention of the President, District Board that he has power to restrict the number of services and to grant special services wherever necessary seems to be based on the schedule attached to the model bye-laws in the Appendix to the Government Order No. 1778, dated 26th September 1922. As will be seen from paragraph of this G O the particulars as regards the number of journeys are mainly entered in the Schedule for the purpose of determining the fees to be collected from the bus owner. No doubt it is also open to the President, District Board to fix the number of journeys that should be permitted on certain roads having regard to their condition. When once the maximum number of services a particular road is likely to be able to stand is fixed by the President, District Board, the further regulation of traffic by permitting the number of services subject to this maximum and by laying down a time-table for the running of the buses which are necessary for the prevention of accidents would properly fall within the sphere of the District Magistrate's duties. In the circumstances the suggestions of the District Magistrate made in para-

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C

graph 3 may be agreed to in this department.

It should ~~of course~~, be borne in mind however that the District Magistrate shall permit special or emergency services only up to the maximum number of services fixed ~~in the schedule~~ by the District Board ~~by the~~ President having regard to the condition of the road.

P3. (J)

I Before, however, coming to a final conclusion on the subject, the file may be sent to the Local Self Government department for remarks. It appears that that department has received a communication from the President, District Board in which he has requested to be given an opportunity to express his views on the subject.

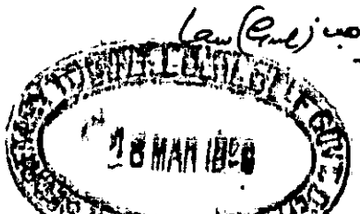
P&R 3.3.26

I think A on page 3 is Correct. As laid down in G.O 1778/L+M. dt 26th Sept 1922 the D.B Board is Concerned really with Questions relating to the use of the roads subject to a maximum number - which the DB has undoubtedly the power to determine the District Magte should have full discretion to decide (1) the no of cars that should ply ordinarily (2) the no that should ply on festival days & other such occasions i.e "emergency services (3) the times at which such cars should ply

ch

L.S.G may see.

Law (Genl) no 1020 C-1 13/3/26



12/3 V.T.K 13.3

L S G

L.S.G

The question raised in this file is whether it is the Dt Magistrate or the Dt Board President who has the power (i) to restrict the number ~~of number~~ of motor services on particular roads in the district & (ii) to grant licences for services on special festival or other occasions

The revised motor bylaws sanctioned by Govt for the Souki Kanara Dt Bd are on pages 3+4 of G.O NO 2963 L&M dated 18.8.1925. There is no specific provision in the bylaws under which the Board can (i) restrict the number of services on any road & (ii) grant licences for special services. In regard to (i) Law deptt has stated in another connection that a dt board can make bylaws restricting the number of buses that can ply on any road. The S. Kanara Dt Bd may be advised to do so if it deems such a provision necessary ~~The Dt Magistrate says~~ In regard to the other point the Dt Magistrate says that till recently the right of granting licences for special services

(M)

+ i.e. in lieu of G.H.

$ U cf

was exercised solely by him and that intimations were invariably given to the P. D. B of all special services run thus enabling him to collect the Bd dues. Under Section 166(1) of the M. L. B Act no person shall on any public road ply any motor vehicle for hire except on a licence obtained from the P. D. B Thus even in cases where a special permit is given by the Dt Magistrate the permit holder cannot run his motor vehicle without a further licence from the P. D. B. Thus it is obvious that the permission of any one authority is not sufficient for the purpose.

4 To avoid any conflict in the matter it would seem desirable to rule as suggested by the DM, that the Dt Bd should first decide what kind of vehicles could be run on any particular road & the maximum number of services it is likely to stand and to leave it to the Dt Magistrate to issue permits subject to these conditions As observed by the D.M "the main concern of a dt board is the development

of the additional expenditure on the roads necessitated by the wear & tear of ~~the~~ roads consequent on the motor traffic.

5. The Dt Magistrate requests that in the interests of the safety of the public, he should have power to permit emergency services on special occasions. This request seems reasonable & may be accepted ~~that~~ on the condition that prompt intimation should be given to the P. D. B of the issue of such permits

6. Please see, however, the President's letter on pages 8 & 9 ante. It is for consideration whether his remarks may be invited on the Dt Magistrate's letter as desired by him

Ag. 19/3 Cz. 9/3

The Dt Magistrate's letter may be referred to the P. D. B. for early remarks to be submitted through the ~~Collector~~ Dt magistrate. The Endt on page 1. of the Current may issue after perusal by Law (S)

7/4/26

Law (S) 7/4/26

CRIMINAL LAW DEPARTMENT 9 APR 1926

L. G. 2383C/674
9.4.26

Leg. No. 1884-1
8.4.26

20 8

Law Govt C

US

may be perused and returned

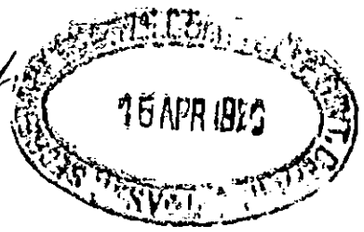
L.S.G

BR
10/4
2

Law (Genl) No 1020C-2
15.4.26

L.S.G No 11179

L.S.G



Draft on page 1 of Current
May now issue

16/4/26

Yrs - more

Secy

19/4/26

19/4
Issued as Endt 11179 (1) LSM
21.4.26

[Endt 11179-1 LSM dated 21-4-26] p 3 cf

C No 26890 Letter from the P.D.B S. Kanara dt 21.8.26 pp 10+11 cf

Encl by the D M S. Kanara No 10322 dt 3.9.26 p. 12 cf

The present President (of the South Kanara) ~~Collector~~
Dist Bd has conceded that the
Dt Magistrate should have the power of
granting permits for special or emergency
motor services Hence as the D.M
observes on 12 cf the main point
of difference ~~was misunderstood~~ now
~~no~~ file has disappeared As
regards the suggestion of the P.D.B
that the failure to pay insurance p 11 cf

SECY. TO GOVT.
20 SEP 1926
LAW DEPT.

Law
P 9 of 9 a No 879
13.3.23

(W)

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fees due to the Dt Bd in time should be made a lawful ground for the cancellation of the 'G' Permit, it may be observed that under condition No. (6) of 'G' Permit the D.M has already got power to cancel the permit in cases of this kind

It may also be incidentally stated that in another file this dept has raised the question whether the practice of laying down a time-table for the running of the public motor vehicles followed by the D.M is permissible under the existing law.

With these remarks the file may be returned to the Law (Genl)

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Law (Genl) Dept

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The present District Board President, S. Kanara, has agreed that the ~~proceeds~~ District Magistrate should have the power to issue licences for special services of motor buses. There is thus no ~~question of~~ conflict between the D.M. and the District Board

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Dy 23/9/26 Law Dept
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Paragraph 7 on p 11 C.P.

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President now. No orders of Govt are therefore required on this point.

2. Incidentally the President, Dt Bd. suggests that in cases where the fees due to the Board are not paid in time the D.M should have powers to withdraw or cancel the Gf' permit. The D. M. calls this an excellent suggestion. By-law 2 of the 'South Kanara Motor Bylaws' framed by the S. Kanara Dt Boards says

Paragraph 7 on p 11 of A

Paragraph 2 on p 12 of Page 3 of f.o. 2963 I & M 18.5

No motor vehicle shall be licensed unless it is certified ..... that the license fee at the rate fixed by the Dt. Bd. has also been paid."

In view of this provision, no Dt. Bd. licence can be issued before the fee for it is paid. Evidently the President refers at 'A' above to motor vehicles which ply with time-expired District Board licences or with no Dt. Bd. licenses. Such cases will infringe rule 30 (4) of the Motor Vehicles Rules which says that 'all motor vehicles which are intended to be let or to ply for hire in areas under the control of local boards should obtain such licenses from the Presidents of the District Boards concerned as may from time to time be prescribed under the Madras Local Boards Act, 1920.'

Under condition 6 of the 'G' permit, the 'permit may be cancelled by the D.M. for any infringement of the provisions of any Act or of any rule having the force of law.' Thus the D.M. has already the power to cancel the 'G' permit if it is found that a motor vehicle plying for hire has no valid Dt. Board licence. Submitted that no fresh rule is required and that the attention of the D.M. may be drawn to rule 30(4) and to condition 6 of the 'G' permit.

3. Incidentally the D.M. suggests that the 'G' permit should be liable to be cancelled for failure to obtain from the Dt. Supdt. of Police timings for the running of buses. At present the D.S.P. fixes the timings of each bus service by executive instructions and the D.M. wants this procedure to be legalised by rules. The Advocate General has held that no rule fixing the timings of bus service can be framed under section 11 of the Motor Vehicles Act, 1914. As the time table is fixed by means of executive instructions, any failure to observe the time table cannot be made a ground for the cancellation of the 'G' permit, as stated by the D.M. So his suggestion cannot be accepted

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A draft order is submitted.

L.S.G may see

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L.S.G

May be perused and the file returned to Law (Genl) 2.0

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Bol 16/X

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Scott. II-5 (b)—6,004—25-11-25. (6)

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Law (General) DEPARTMENT

	Date.	Initials.
When received for Fair-copying.		
When copied ..	18/10/26	
When examined ..		
When signed ..		
When despatched ..		

Motor vehicles - running of special services - S.Kanara District - failure to pay fees to the Dt. Board - instructions issued.

READ AGAIN G.O. No....., dated.....192

" " " " ..... " 192

READ ALSO:—

Mr 3 cf. C. No.1020C From the D.M. South Kanara, No.16322.C.25 dated 14-2-1926

Mr 12 cf. " "5132 C. " " D.M. S.Kanara. Ref.10322-C/1925 " 3-9-1926

" " ..... " " ..... " ..... " 192

ORDER.

No.3249 dated 18-10-1926.

Mis.

Paragraph 9 on Pr 8-9 cf.

Paragraph 2 on Pr 12 cf

In his letters read above the D.M South Kanara, made the following suggestions:--

(1) that the D.M. and not the President Dt. Board, should have the power to grant owners of motor vehicles plying for hire, permission to run special services;

(2) that failure to pay the licence fees due to the District Board should be made a lawful ground for the D.M. to cancel or suspend the "G" permit of the vehicle; and

(3) that the running of a motor vehicle for hire without conforming to the time table prescribed by the D.S.P should be made punishable by the cancellation or suspension of the "G" permit

2. In regard to the first proposal, it is reported that the President, Dt. Board has conceded that the D.M. should have the power to issue special permits and no further orders of Government are in the circumstances called for.

Paragraph 1 on p 12 ct

3. In regard to the second proposal the attention of the D.M. is drawn to bylaw No.2 of the "South Kanara Motor By-laws" which lays down that "No motor vehicle shall be licensed unless it is certified ..... that the licence fees at the rate fixed by the Dt. Board ~~has~~ have been paid". As the payment of fees is a condition precedent to the grant of licence, cases of failure to pay the fees due to the District Board are not likely to arise. Further under condition 6 of the "G" permit the D.M. has power to cancel the permit for any infringement of the provisions of any Act or of any rule having the force of law.

Paragraph 2 on pp 10-11 n.t.

4. As regards the third suggestion the D.M. is informed that the timings for motor bus services are ~~now~~ regulated by means of executive instructions and that failure to observe ~~such~~ timings prescribed by the D.S.P. cannot be regarded as a breach of the Motor Vehicles Rules.

Paragraph 3 on p 11 n.t.

DESPATCHED
on 18.OCT1929

To the D.M., South Kanara.

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V.T.K.
91.10